

IN THE CLAIMS
ARGUMENTS IN RESPONSE TO OBJECTIONS

Claim Rejections per 35 USC §103

The Examiner has rejected claims 1-5 and 8-9, 13, 15, 17-19 pursuant to *35 USC §103* citing the combination of Treidl in view or Valiulis.

The Examiner cites Treidl as having a receptacle with receptacle connectors adapted to engage with plug connectors, and said *receptacle connectors* communicating with a means for switching, with an electrical power supply.

However, Treidl does not have such a configuration, and will not function with the configuration suggested by the Examiner.

Treidl, as shown in figure 2, and described (column 4 lines 5-19) does not interrupt the power to the receptacle connectors that engage the plug. In fact, Treidl, in order operate, must maintain the receptacle connectors in an energized state at all times. The switching means of Treidl, must communicate with and through the energized receptacle connectors. (Column 5 lines 5-21) Treidl must always have energized receptacle connectors to function since the signal which activates the switching means of Treidl is communicated down the power line, through the energized receptacle connectors, to the switching means. Treidl allows any electrical device with a plug, to be energized by the Treidl

receptacle connectors since they are always energized. Treidl only cuts power if there is a switch subsequent to the plug receptacles which is activated by a signal to cut power through the power line itself. It is designed to maintain the receptacle connectors energized at all times.

A light bulb plugged into Treidl will always work unless a switch is placed between the plug receptical and the light bulb and communicates with a controller, over the power line, through the energized receptacle connectors, to interrupt the circuit. A light bulb on Applicant's device will never work unless the transceiver is placed sufficiently close to the socket to energize the receptacle once the plug is engaged. A child pushing a fork into the receptacle of Treidl will be electrocuted, while a child doing the same with Applicant's device will receive nothing more than a scolding from a parent unless the receptacle is turned to the energized state by a transceiver being located proximate to it.

Consequently, Treidl lacks structure and resulting functions of Applicant's device, and Treidl teaches away from Applicant's claimed device, by the requirement that the receptacle remain energized for it to function.

Neither apparatus nor process claims can properly be rejected on a combination of steps or elements allegedly drawn from prior art disclosures where the steps or elements must be modified to meet the claims, and where both the combination and the modifications must be made in light of the applicant's own teachings, rather than in the light of any suggestions derivable from the prior art itself. *Walker v. Ladd, Comr. Pats . DCDC 138 USPQ 386 at 388 1963*

As such, the combination of Treidl and Valiulis must fail as such since Treidl teaches away from applicant's device and by its structure functions the opposite of applicant's device. Any other combinations relying on Treidl would also fail to teach or suggest applicant's claimed device.

Further, Valiulis teaches the use of a transponder to de-energize individual appliances by integrating the RFID with the control logic of the individual device itself. (Page 15 lines 1-8). Valiulis functions as a theft deterrent of individual devices by allowing the individual device to be turned off remotely using the controls of the very device being disengaged. It does not allow any device with a plug to be energized or de energized by a receptacle by controlling the receptacle itself and does not maintain the device in a de-energized when the transceiver is too distant state since the intent of Valiulis is to never operate to de-energize the device unless it is stolen or used without authorization.

As noted, Treidl lacks elements of Applicant's device and the combination with Valiulis inherently fails. The fact that Valiulis operates the opposite of applicant's device compounds this problem. The additional combinations with Black or Rodwin also must fail since Treidl lacks elements and teaches against Applicant's device and Valiulis lacks elements of Applicant's

device and teaches against the functions of Applicant's device.

Conclusion

No new matter has been added to the application that would require a new search by the Examiner. Applicants' device claims elements providing function, which are neither taught nor suggested in the cited prior art in the combinations suggested by the Examiner. Both, Treidl and Valiulis teach against the functions provided by Applicant's device structure.

Additionally, Applicants as noted in the original specification consider the improvement of Applicant's device to be substantial, and provide great benefits to the end user of the claimed device. However, even if the Examiner does not consider Applicant's claimed device a great advance, it has been established that one should not be deprived of patent protection where it can be shown that a genuine improvement has been made, on comparison, with other inventions in the art, even if the improvement is slight, or lacks the appearance of a great advance in the art. In re Lange, 128 USPQ 365, the CCPA on page 367 stated that:

"We think that the present application is a distinct improvement of Jezalik and represents an advance in the art not obvious, having patentable novelty. The art is a crowded and comparatively simple one and in such an art, great advances are not to be expected. However patentability will not be denied to an invention which accomplishes a small, but nevertheless genuine improvement not thought of by others.."

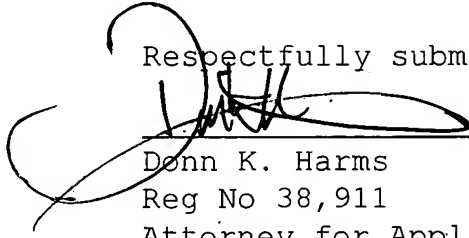
Further, the CCPA in the recent case of *re Meng and Driessen*, 181 USPQ 94, on page 97, reiterated the principal that even though the invention seems a simple advance over prior art, *after the fact*, simplicity, particularly in a crowded art, argues *for*, rather than against patentability.

Applicants' device provides genuine improvement in the area of control of the energizing of an electric power socket and access thereto by any device with a properly configured plug and locatable transceiver, and as noted, even in a crowded art, and even if the improvements are not considered major by the Examiner, the improvements of Applicants' device argue *for* patentability.

As such, all claims of the application should now be in position for allowance.

Finally, should the Examiner have suggestions to more clearly define the claims to more clearly define the patentable subject matter, and hasten approval, the Applicant's attorney would be most receptive to such by telephone or Examiner's amendment.

Respectfully submitted,



Donn K. Harms
Reg No 38,911
Attorney for Applicant

12702 Via Cortina, Ste. 100
Del Mar, CA 9014
Tel: (858) 509-1400
Fax: (858) 509-1677